

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TONY LEE MUTSCHLER,
Petitioner)
v.)
COMMONWEALTH OF PA, et al.,
Respondents.)
C.A. No. 11-260 Erie
Magistrate Judge Baxter

OPINION AND ORDER

United States Magistrate Judge Susan Paradise Baxter

I. INTRODUCTION

This is a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, filed by a state prisoner presently incarcerated at the State Correctional Institution at Albion in the Western District of Pennsylvania. In his petition, Petitioner Tony Lee Mutschler challenges his conviction and sentence that was imposed by the Court of Common Pleas of Northumberland County, Pennsylvania, on July 27, 1999. As relief, Petitioner seeks immediate release from prison pending review and dismissal of charges.

II. DISCUSSION

Title 28 U.S.C. §2241(d) provides that where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a state court of a state which contains two or more federal judicial districts,

the application may be filed in the district court for the district

wherein such person is in custody or in the district court for the district within which the state court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

28 U.S.C. §2241(d). See also, Bell v. Watkins, 692 F.2d 999 (5th Cir. 1982) (the district court transferred the action on the basis of the magistrate's recommendation which indicated that the district where the defendant was convicted was the more convenient forum because of the accessibility of evidence).

In the case at bar, Petitioner was apparently tried and convicted of the challenged offenses in Northumberland County, Pennsylvania. Petitioner's records are located there. He is presently incarcerated at the State Correctional Institution at Albion, within the Western District of Pennsylvania. Northumberland County is located in the Middle District of Pennsylvania. This Court finds that the interests of justice would be better served by transferring this petition to the Middle District of Pennsylvania wherein all activity in this case occurred.

An appropriate Order follows.

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)
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ORDER

AND NOW, this 28th day of November, 2011, it is hereby ORDERED, ADJUDGED and
DECREED that this case is transferred to the United States District Court for the Middle
District of Pennsylvania.

Upon transfer, the Clerk is directed to mark this case closed.

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States Magistrate Judge